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Counsel for Defendant **JEANETTE BLAND**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) NO. CR-07-0670-JSW
)
) JEANETTE BLAND'S
Plaintiff,) SUPPLEMENTAL SENTENCING
vs.) MEMORANDUM
)
JEANETTE BLAND,)
)
Defendant.)
_____)

INTRODUCTION AND PROCEEDINGS BELOW

This case was originally set for sentencing on March 6, 2008 after a guilty plea based on an anticipated negotiated disposition pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure.

Paragraph 8 of the plea agreement called for the following disposition: 3 years of probation (with conditions to be fixed by the Court), no fine, \$100.00 special assessment, and \$4,165.00 in restitution. In preparing the PSR, USPO Sparks discovered that the restitution amount had been incorrectly calculated by the

1 parties and that the correct figure was \$11,965.00. Both parties
2 subsequently agreed with the USPO's calculations.

3 On March 6, 2008, the Court advised the parties that it would
4 not follow the plea agreement's negotiated disposition. The
5 Court, to undersigned counsel's recollection, stated that, in its
6 view, a combination of jail time and half-way house or home-
7 electronic monitoring-enforced house arrest was an appropriate
8 disposition. The case was continued to March 20, 2008, and the
9 parties were expected to determine how to proceed by that date.
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11 On March 18, 2008, Ms. Bland submitted a status memorandum
12 advising the Court that she intended to withdraw her guilty plea,
13 as was her right under Rule 11(c)(1)(C), rather than to proceed
14 with sentencing, given the Court's rejection of the plea
15 agreement. The withdrawal of the plea would result in the case
16 being transferred back to Nebraska to start anew.
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18 However, after filing the status memorandum, undersigned
19 counsel was able to obtain confirmation that Ms. Bland had in fact
20 served local jail time in Nebraska of approximately 24 days, with
21 credit for at least 30 days in county jail, and that this jail
22 time was related to the same conduct that she pleaded guilty to
23 and was awaiting sentencing on in this case. Exhibit A, attached.
24 At the March 20 hearing, Ms. Bland's counsel inquired of the Court
25 as to whether, if several weeks of actual jail custody had in fact
26 been served by Ms. Bland in relation to this case, the Court would
27 change its view of the plea agreement.
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1 The Court advised the parties that it wanted concrete proof
2 of the jail time and that it was for the same conduct involved in
3 the present case. With that confirmation, the Court would then
4 consider a sentence involving home electronic monitoring as a
5 condition of probation. The Court directed the parties to further
6 confer and investigate the jail time issue. The case was
7 continued to April 3, 2008 for further proceedings.
8

9 CONFIRMATION OF JAIL TIME

10 On March 21, 2008, AUSA Danner wrote the court with
11 verification that Ms. Bland served jail custody time "at the
12 Douglas County Correctional Facility in Nebraska from March 7,
13 2006 through March 30, 2006 ... to answer to the charge of theft by
14 deception under Nebraska law. The conduct underlying that charge
15 is the same conduct underlying the charge in the above-captioned
16 case... [T]his case was eventually dismissed." Exhibit B, attached.
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18 On March 24, 2008, undersigned counsel spoke by telephone
19 with Secret Service Special Agent Matt Loux, the original case
20 agent in this Federal Case. Agent Loux confirmed that Ms. Bland
21 was arrested for the conduct in this case on March 2, 2007 and
22 that she was in Omaha Police Department custody from March 2 to
23 March 7, 2007 when she was brought to the Douglas County facility.
24 AUSA Danner independently confirmed the information with Agent
25 Loux. Exhibit C, attached.
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27 In view of the above, we can now state to the Court with
28 absolute certainty that Ms. Bland served jail time from March 2 to
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1 In view of the above, we can now state to the Court with
2 absolute certainty that Ms. Bland served jail time from March 2 to
3 March 30, 2006 in relation to the conduct to which she pleaded
4 guilty in this case. However, as the Court is aware, the federal
5 Bureau of Prisons will not give Ms. Bland credit for that jail
6 time should the Court sentence Ms. Bland to jail with credit for
7 time served. The Bureau of Prisons (BOP) only awards credit for
8 time served in actual federal custody.
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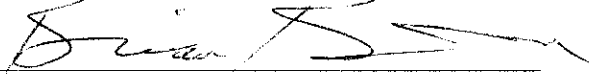
10 Regardless of BOP policy, the parties and the Court now have
11 confirmation that Ms. Bland served almost one month of actual jail
12 time in relation to this case. If this is equal or more than the
13 amount of jail time that the Court deemed necessary to serve the
14 purposes of sentencing in this case, the Court could sentence Ms.
15 Bland according to the terms of the plea agreement by imposing a
16 home electronic monitoring or half-way house condition as a term
17 of probation. The plea agreement specifically calls for 3 years
18 of probation "with conditions to be fixed by the Court ..." Plea
19 Agreement, ¶8.
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21 Based on the foregoing discussion of evidence that
22 subsequently came to light, Ms. Bland requests this Court to
23 reassess its previous rejection of the plea agreement. Ms. Bland
24 further requests that the Court follow the recommendation
25 contained not only in the plea agreement but in the PSR and, in
26 addition, to fix a set period of home electronic monitoring during
27 which time Ms. Bland should be permitted to work and travel as
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1 necessary regarding the detainers, as addressed in Ms. Bland's
2 original Sentencing Memorandum. We further request that the Court
3 specify that any financial obligation on Ms. Bland's part to pay
4 for the electronic monitoring be done on a sliding scale basis to
5 be determined by her supervising probation officer, based on Ms.
6 Bland income and necessary expenses.
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11 Date: 3/27/08

Respectfully Submitted,


BRIAN P. BERSON
ATTORNEY FOR JEANETTE BLAND